

G6AVOLIP

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 CR 861 (JMF)

5 ROBERT OLINS,

6 Defendant.

PLEA

7 -----x
8 New York, N.Y.
9 June 10, 2016
2:15 p.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the
Southern District of New York

17 CHRISTINE I. MAGDO

Assistant United States Attorney

18 JAMES R. DeVITA

19 ANTHONY CECUTTI

Attorneys for Defendant

20
21 ALSO PRESENT: HOLLY MEISTER, Paralegal Specialist, USAO

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(Case called)

THE COURT: My apologize for keeping you waiting.

There was a little bit of a miscommunication on my end. I think my deputy thought -- because I told her that I was coming straight here, I was sitting upstairs waiting thinking that you guys weren't ready. So I apologize to you and to her.

All right. My understanding is that, Mr. Olins, you wish to change your plea and enter a guilty plea to Counts One and Five of the indictment S1 15 CR 861; is that correct?

THE DEFENDANT: Yes, your Honor.

THE COURT: All right.

Before I accept your guilty plea, I need to ask you certain questions to ensure that you are pleading guilty because you are, in fact, guilty and not for some other reason, to ensure that you understand the rights that you would be giving up by pleading guilty, and that you understand the potential consequences of a guilty plea.

It is essential that you understand each of my questions before you answer them; so if you do not understand any question, I want you to let me know so that Mr. DeVita or Mr. Cecutti can explain it to you more fully or I can explain it to you more fully. If at any point you'd like to consult with your lawyers for any reason, just let me know and I'm happy to give you however much time you would like to speak with them.

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1 Do you understand all that?

2 THE DEFENDANT: Yes, I do, your Honor.

3 THE COURT: I'll ask my deputy, Ms. Smallman, to
4 administer the oath to Mr. Olins.

5 (Defendant sworn)

6 MR. DeVITA: Do you want us to remain standing, your
7 Honor?

8 THE COURT: You may be seated. Thank you. Just make
9 sure each of you has a microphone within reach.

10 Mr. Olins, you are now under oath, which means if you
11 answer any of my questions falsely, you may be subject to
12 prosecution for the separate crime of perjury.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: What is your full name?

16 THE DEFENDANT: Robert Alan Olins.

17 THE COURT: How old are you?

18 THE DEFENDANT: 59.

19 THE COURT: How far did you go in school?

20 THE DEFENDANT: Bachelor of science and finance
21 undergraduate.

22 THE COURT: Have you ever been treated or hospitalized
23 for any type of mental illness?

24 THE DEFENDANT: No.

25 THE COURT: Are you now or have you recently been

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1 under the care of a doctor or a psychiatrist?

2 THE DEFENDANT: Doctors, yes.

3 THE COURT: Can you just tell me generally what sorts
4 of things you're being treated for.

5 THE DEFENDANT: Rheumatoid arthritis, stenosis in the
6 cervical vertebrae, and just general -- and I have severe
7 claustrophobia.

8 THE COURT: Are you receiving any medications for any
9 of that?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: Are you on any medications right now?

12 THE DEFENDANT: Yes.

13 THE COURT: Is there anything about the conditions or
14 the treatment, including the medications, that would affect
15 your ability to understand what's happening here today?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: All right.

18 Have you ever been treated or hospitalized for any
19 type of addiction, including drug or alcohol addition?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: In the last 48 hours, have you taken any
22 drugs, medicine or pills, including the medication that you
23 just alluded to, or had any alcohol in the last 48 hours?

24 THE DEFENDANT: I've had the pills.

25 THE COURT: All right.

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1 Can you just tell me briefly what those are.

2 THE DEFENDANT: I take Percocet for the pain for the
3 rheumatoid arthritis, and I take Valium for the claustrophobia,
4 and I take telmisartan for high blood pressure.

5 THE COURT: All right.

6 Have you taken any of those today or --

7 THE DEFENDANT: Yes, I have.

8 THE COURT: Are they affecting your ability to
9 understand what's happening here today?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: Is your mind clear today?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand what's happening here
14 today?

15 THE DEFENDANT: Yes.

16 THE COURT: Mr. DeVita, have you discussed this matter
17 with Mr. Olins, I assume?

18 MR. DeVITA: Yes, I have, your Honor.

19 THE COURT: Does he understand the rights he would be
20 giving up by pleading guilty?

21 MR. DeVITA: He does.

22 THE COURT: Is he capable of understanding the nature
23 of these proceedings, in your judgment?

24 MR. DeVITA: Absolutely.

25 THE COURT: Does either counsel have any doubt as to

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1 the defendant's competence to plead guilty at this time?

2 MS. MAGDO: No, your Honor.

3 MR. DeVITA: No, your Honor.

4 THE COURT: On the basis of Mr. Olins' responses to my
5 questions, my observations of his demeanor here in court, and
6 the representations of counsel, I find that he is fully
7 competent to enter an informed plea of guilty at this time.

8 Mr. Olins, have you received a copy of the indictment
9 S1 15 CR 861 containing the charges to which you intend to
10 plead guilty?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Have you read it?

13 THE DEFENDANT: Yes, I have.

14 THE COURT: Have you had enough time to discuss with
15 Mr. DeVita the charges to which you intend to plead guilty and
16 any possible defenses to those charges?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Has he explained to you the consequences
19 of entering a guilty plea?

20 THE DEFENDANT: He has.

21 THE COURT: Are you satisfied with your lawyers'
22 representation of you?

23 THE DEFENDANT: Yes, I am.

24 THE COURT: All right.

25 Now, I have here a written advice of rights form which

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1 I will mark as Court Exhibit 1 and provide to the government to
2 keep in its possession after this proceeding.

3 Turning to page 2 of the form, it appears that you
4 have signed it dated today, June 10th. Is that your signature
5 there on page 2 of the form or would you like --

6 THE DEFENDANT: I believe it is, yes.

7 THE COURT: Let me have my deputy just show it to you
8 just so there's no ambiguity.

9 MR. DeVITA: Your Honor, I handed it to your deputy as
10 your Honor was coming, so I think we're satisfied it's the same
11 one we just signed.

12 THE COURT: Very good.

13 Before you signed that form, Mr. Olins, did you read
14 it?

15 THE DEFENDANT: Yes, I did.

16 THE COURT: Before you signed it, did you discuss it
17 with Mr. DeVita?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: Or Mr. Cecutti?

20 THE DEFENDANT: Yes.

21 THE COURT: Did they explain it to you and answer any
22 questions you may have had about the form?

23 THE DEFENDANT: They did, your Honor.

24 THE COURT: Now, I'm going to go over many of the same
25 things with you orally just to ensure that you understand what

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1 you're doing and the consequences of what you are doing.

2 Under the Constitution and laws of the United States,
3 you have the right to plead not guilty to the charges in the
4 indictment.

5 Do you understand that?

6 THE DEFENDANT: I do.

7 THE COURT: If you did plead not guilty, you would be
8 entitled to a speedy and public trial by a jury on those
9 charges.

10 Do you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: At that trial, you would be presumed to be
13 innocent and you would not have to prove that you were
14 innocent; instead, the government would be required to prove
15 your guilt by competent evidence beyond a reasonable doubt
16 before the jury could find you guilty.

17 Do you understand that?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: In order to find you guilty, a jury of 12
20 people would have to agree unanimously that you were guilty.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: At that trial and at every stage of your
24 case, you would be entitled to the assistance of a lawyer. If
25 you could not afford a lawyer, one would be appointed at public

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1 expense free of cost to represent you.

2 Do you understand that?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: During a trial, the witnesses for the
5 government would have to come to court and testify in your
6 presence. Your lawyer would have an opportunity to
7 cross-examine those witnesses and object to any evidence
8 offered against you by the government. You would also have an
9 opportunity to introduce evidence on your own behalf and have
10 subpoenas issued or other process used to compel witnesses to
11 come to court and testify in your presence.

12 Do you understand all that?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: At a trial, you would have the right to
15 testify if you chose to do so, but you would also have the
16 right not to testify. If you chose not to testify, then no
17 one, including the jury, could draw any inference or suggestion
18 of guilt from the fact that you did not testify.

19 Do you understand that?

20 THE DEFENDANT: I understand that.

21 THE COURT: Before trial, you would have an
22 opportunity to seek suppression or exclusion of evidence that
23 the government would use against you at trial unless you have
24 waived your opportunity to do so.

25 Do you understand that?

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1 THE DEFENDANT: Yes, I do.

2 THE COURT: If you were convicted at trial, you would
3 have the right to appeal that verdict and a right to appeal any
4 pretrial rulings I made, including the ruling I made in
5 connection with the motion that you filed earlier in this
6 litigation.

7 Do you understand that?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: If you plead guilty, you will also have to
10 give up your right not to incriminate yourself because I may
11 ask you questions about what you did in order to satisfy myself
12 that you are guilty as charged and you will have to admit and
13 acknowledge your guilt.

14 Do you understand that?

15 THE DEFENDANT: I understand that.

16 THE COURT: If you plead guilty and if I accept your
17 guilty plea, you will give up your right to a trial and the
18 other rights that we have just discussed, other than your right
19 to a lawyer, which you keep whether or not you plead guilty.
20 But there will be no trial and I will enter a judgment of
21 guilty and sentence you on the basis of your plea after I have
22 received and considered a presentence report prepared by the
23 United States Probation Department and any submissions that I
24 get from the lawyers. There will be no appeal with respect to
25 whether you did or did not commit the offenses to which you are

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1 pleading guilty with respect to my pretrial rulings or with
2 respect to whether the government could use the evidence that
3 it has against you.

4 Do you understand all of that?

5 THE DEFENDANT: I do.

6 THE COURT: Even now as you are entering this plea,
7 you have the right to change your mind, to plead not guilty,
8 and to go to trial on the charges in the indictment.

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand each and every one of
12 the rights that we have just discussed?

13 THE DEFENDANT: I do.

14 THE COURT: Are you willing to give up your right to a
15 trial and the other rights that we have discussed?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that you are charged in
18 Count One with conspiring to obstruct justice, in violation of
19 Title 18, United States Code, Section 371, and that you are
20 charged in Count Five with money laundering, international
21 money laundering in particular, in violation of Title 18,
22 United States Code, Section 1956(a)(2)?

23 Do you understand that those are the charges in those
24 counts?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Ms. Magdo, would you please state the
2 elements of those offenses.

3 MS. MAGDO: Certainly.

4 The elements of a conspiracy under Count One are:

5 There existed an agreement between two or more people
6 to violate a law of the United States, in this case, to violate
7 Title 18, U.S.C., Section 1503; second, the defendant knowingly
8 and willfully became a member of the conspiracy; and third, at
9 any time during the existence of the conspiracy, any one of the
10 conspirators committed an overt act in furtherance of that
11 agreement.

12 The elements of the underlying offense, obstruction of
13 justice, are, one, that there was a pending judicial proceeding
14 constituting the administration of justice; two, the defendant
15 knew or had notice of the proceeding; and three, the defendant
16 acted with the wrongful intent or improper purpose to influence
17 the judicial or grand jury proceeding, whether or not the
18 defendant was successful in doing so.

19 For Count Five, international money laundering, there
20 are two elements:

21 One, the defendant transported, transmitted or
22 transferred, or attempted to transport, transmit or transfer a
23 monetary instrument or funds from a place in the United States
24 to or through a place outside the United States, or to a place
25 in the United States from or through a place outside the United

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1 States.

2 Two, the defendant did so with the intent to promote a
3 specified unlawful activity, in this case, the offense charged
4 in Count One of the indictment, which qualifies as a specific
5 unlawful activity under the money laundering statutes.

6 THE COURT: All right. Thank you very much.

7 Mr. Olins, do you understand that if you were going to
8 trial, the government would have to prove each of those
9 elements beyond a reasonable doubt before the jury could find
10 you guilty?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Let me tell you now about the maximum
13 possible punishments that apply to these crimes. By "maximum"
14 I mean the most that could possibly be imposed upon you; it
15 doesn't necessarily mean that that is the sentence you will
16 receive, but you have to understand that by pleading guilty,
17 you are exposing yourself to punishments up to the statutory
18 maximum.

19 Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: First let me tell you about the possible
22 restrictions on your liberty.

23 The maximum term of imprisonment for Count One is five
24 years and the maximum term of imprisonment for Count Five is 20
25 years. Those could be followed by supervised release terms up

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1 to three years in each case. "Supervised release" means that
2 you would be subject to supervision by the probation
3 department. There would be rules that you would have to
4 follow. If you violated those rules, you could be returned to
5 prison to serve additional time without a jury trial and
6 without credit for the time spent on your underlying sentence
7 or credit for time spent on post-release supervision.

8 Do you understand all that?

9 THE DEFENDANT: I do.

10 THE COURT: You should understand that there is no
11 such thing as parole in the federal system in this country,
12 which means that if you are sentenced to prison you would not
13 be released early on parole. There is a limited opportunity to
14 earn credit for good behavior, but if you were sentenced to
15 prison, you would have to serve at least 85 percent of the time
16 to which you were sentenced.

17 Do you understand that?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: In addition to those potential
20 restrictions on your liberty, the maximum punishment also
21 includes certain financial penalties:

22 First, the maximum allowable fine for Count One is the
23 greatest of \$250,000, twice the gross pecuniary or financial
24 gain derived from the offense or twice the gross pecuniary loss
25 to someone other than you as a result of the offense.

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1 The maximum allowable fine for Count Five is the
2 greater of \$500,000 or twice the value of the funds involved in
3 the illegal transfer. In addition, I can order restitution to
4 any person or entity injured as a result of your criminal
5 conduct. And here in the plea agreement that we will talk
6 about shortly, I understand that you agree to make restitution
7 in an amount ordered by me, the total of which shall not be
8 less than \$657,000, to American Bank and Trust Company and the
9 Securities and Exchange Commission.

10 Third, I can order you to forfeit all property derived
11 from the offense or used to facilitate the offense. Again, I
12 note that in the plea agreement that we will discuss you admit
13 to the forfeiture allegations with respect to Counts One and
14 Five and agree to forfeit to the United States certain property
15 set forth in the agreement.

16 Finally, I must order a mandatory special assessment
17 of \$100 per count.

18 Do you understand that those are the maximum possible
19 penalties?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that it is possible,
22 taking the two counts together, that you could receive a
23 sentence of imprisonment up to 25 years?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: All right.

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1 Now, are you a citizen of the United States,
2 Mr. Olins?

3 THE DEFENDANT: I am.

4 THE COURT: You should understand that as a result of
5 your guilty plea, you may lose certain valuable civil rights,
6 to the extent that you have them or could otherwise obtain them
7 now, such as the right to vote, the right to hold public
8 office, the right to serve on a jury, and the right to possess
9 any kind of firearm.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Are you serving any other sentence, either
13 state or federal, or being prosecuted in any other court at
14 this time?

15 THE DEFENDANT: No.

16 THE COURT: Do you understand that if your lawyer or
17 anyone else has attempted to predict what your sentence will
18 be, that their predictions could be wrong?

19 THE DEFENDANT: I do.

20 THE COURT: It is important for you to understand that
21 no one, not your lawyer, not the lawyers for the government, no
22 one can give you any assurance or promise as to what your
23 sentence in this case will be, and that is because your
24 sentence will be determined by me and by me alone.

25 I'm not going to do that today. Instead, I will wait

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1 until I get the presentence report that I mentioned earlier. I
2 will do my own independent calculation of how the United States
3 Sentencing Guidelines apply to your case and consider any
4 departures from the guidelines range. I will consider any
5 submissions that I get from the lawyers and the factors set
6 forth in a statute that governs sentencing: Title 18, United
7 States Code, Section 3553(a). I will do all of that before
8 determining and imposing an appropriate sentence on you.

9 Do you understand all that?

10 THE DEFENDANT: I do, your Honor.

11 THE COURT: Have you discussed that process with your
12 lawyers?

13 THE DEFENDANT: Yes, I have.

14 THE COURT: Even if your sentence is different from
15 what your lawyer or anyone else has told you that it might be,
16 even if it is different from what you expect or hope it to be,
17 and even if it is different from what may be in the plea
18 agreement that we will talk about in a moment, you will still
19 be bound by your guilty plea and you will not be allowed to
20 withdraw your plea.

21 Do you understand that?

22 THE DEFENDANT: I do.

23 THE COURT: I understand that there is a written plea
24 agreement that you and your lawyers have entered into with the
25 lawyers for the government; is that correct?

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1 THE DEFENDANT: That's correct.

2 THE COURT: I have the original letter plea agreement
3 here dated June 9th, 2016 from Assistant United States
4 Attorneys Christine Magdo and Andrea Griswold addressed to your
5 lawyer Mr. DeVita. I will mark this as Court Exhibit 2 and
6 provide it to the government to retain in its possession after
7 this proceeding.

8 Turning to the last page of the agreement, it appears
9 to have been signed by you dated today. Again, I'm going to
10 show it to you, and hopefully you can identify it from there,
11 but is that your signature?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Before you signed the plea agreement, did
14 you read it?

15 THE DEFENDANT: I did.

16 THE COURT: Before you signed it, did you discuss it
17 with Mr. DeVita?

18 THE DEFENDANT: I did.

19 THE COURT: Before you signed it, did he explain it to
20 you and answer any questions that you may have had about the
21 plea agreement?

22 THE DEFENDANT: He did.

23 THE COURT: Before you signed the plea agreement, did
24 you fully understand it?

25 THE DEFENDANT: Yes, I did.

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1 THE COURT: Now, one of the features of your agreement
2 is that you and the government have agreed on how the United
3 States Sentencing Guidelines apply to your case; is that
4 correct?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: You should understand that that agreement
7 is binding on you and it's binding on the government, but it is
8 not binding on me, which is to say that I have my own
9 independent obligation to determine the correct guidelines
10 range. I'm not suggesting to you that I will come up with a
11 different calculation than the one set forth here or let alone
12 that it would be a higher calculation, but that's always a
13 possibility. If I did come up with a different or higher
14 calculation, you would still be bound by your guilty plea and
15 you would not be allowed to withdraw your plea.

16 Do you understand that?

17 THE DEFENDANT: I do.

18 THE COURT: Now, another feature of your agreement is
19 that you have agreed not to appeal or otherwise challenge any
20 sentence that is within or below the stipulated sentencing
21 guidelines range of 33 to 41 months in prison, which means that
22 if I sentence you to 41 months in prison or anything less than
23 41 months in prison, you would not be allowed to appeal or
24 otherwise challenge that sentence.

25 Do you understand that?

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1 THE DEFENDANT: I do.

2 THE COURT: Does this written agreement constitute
3 your complete and total understanding of the entire agreement
4 between you and the government?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Has anything been left out of the written
7 plea agreement?

8 THE DEFENDANT: Not that I know of.

9 THE COURT: All right.

10 Mr. DeVita, anything --

11 MR. DeVITA: No, your Honor. It's the complete
12 agreement.

13 THE COURT: All right.

14 Other than what is written in the agreement,
15 Mr. Olins, has anyone made any promise to you or offered you
16 any inducement either to plead guilty or to sign the plea
17 agreement?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Has anyone forced you or threatened you to
20 sign the plea agreement.

21 THE DEFENDANT: No, your Honor.

22 THE COURT: Has anyone made a promise to you as to
23 what your sentence will be?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Okay.

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1 Mr. Olins, I'd like you now to tell me in your own
2 words what you did that makes you believe that you are guilty
3 of the crimes charged in Counts One and Five of the
4 indictments.

5 MR. DeVITA: Your Honor, Mr. Olins and I have
6 collaborated. I've helped him prepare a written statement that
7 he would like to read. It's a somewhat complicated set of
8 facts. I think it would make the matter easier for him to read
9 it, if that's all right.

10 THE COURT: As long as he's prepared to state it as --

11 MR. DeVITA: Yes, your Honor, it's based on what he's
12 told me.

13 THE COURT: Very good. That's certainly not unusual.
14 You're welcome to proceed in that manner, as long as what you
15 say you are prepared to adopt and is, in fact, true. So you
16 may proceed.

17 THE DEFENDANT: Thank you.

18 In July of 2011, the SEC commenced an action here in
19 the U.S. District Court in Southern District to enforce a
20 disgorgement judgment it had obtained in another action against
21 me in the U.S. District Court in the Northern District of
22 California.

23 In about April of 2012, Judge Cote of this Court
24 granted the SEC's motion to appoint a receiver to liquidate a
25 collection of antiques that I owned. The receiver appointed by

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1 the Court was American Bank and Trust Company, which had a
2 first lien on the antique collection from a prior loan to me.

3 An antique dealer called Mallett, with showrooms here
4 in New York and in London, had a number of the items from my
5 collection on consignment from a time predating the
6 disgorgement order and the receivership. The items on
7 consignment to Mallett included a valuable set of three antique
8 vases. Based on an offer from Mallett to purchase those vases,
9 which was on June 12th, 2012, the receiver applied for court
10 approval to sell the vases to Mallett.

11 Mallett represented to the receiver that it had a
12 buyer for the vases who would pay approximately \$600,000 and
13 that Mallett would retain \$60,000 as its profit or commission
14 on the sale, leaving a balance of \$540,000 to be paid to the
15 receiver. The Court granted the receiver's application on June
16 14th, 2012.

17 On June 19th, 2012, I met with Henry Neville, who was
18 the president of Mallett, here in New York at Mallett's shop or
19 showroom in New York. And Mr. Neville told me for the first
20 time that Mallett had sold the vases for more than \$600,000.
21 He told me the vases had been sold for a million dollars.

22 I understood at that point that Mallett and
23 Mr. Neville had obtained the vases and the excess funds from
24 the sale from the receiver, American Bank and Trust, on the
25 basis of false representations regarding how much Mallett would

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1 sell the vases for. In that June 19th, 2012 meeting,
2 Mr. Neville informed me that Mallett was going to apply a
3 significant part of the excess proceeds for the sale of the
4 vases to reduce an outstanding debt for another antique item
5 Mallett was holding and that I had agreed to purchase in 2010
6 before the SEC's disgorgement order.

7 I asked Mr. Neville to provide me with some part of
8 the excess proceeds from the sale of the vases and he agreed.
9 At my request, Mr. Neville arranged for Mallett to wire
10 \$160,000 to a bank account in the Isle of Man for the benefit
11 of a company affiliated with me. A significant part of that
12 160,000 was ultimately disbursed for my benefit. I did not
13 inform the receiver that Mallett had sold the vases for
14 significantly more than it had represented or that I had
15 received directly or indirectly part of the proceeds of the
16 sale.

17 When I arranged for Mallett to transfer the 160,000 to
18 the Isle of Man account, I did so, at least in part, in order
19 to prevent the SEC from seizing those funds or obtaining them
20 in satisfaction of the obligations covered by the judgment
21 enforcement action in the court.

22 THE COURT: All right.

23 A couple of just follow-up questions for you.

24 First, you said you met with Mr. Neville here in New
25 York.

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1 THE DEFENDANT: Yes.

2 THE COURT: Can you be more precise. Where in New
3 York?

4 THE DEFENDANT: 73rd Street and Madison Avenue.

5 THE COURT: In Manhattan?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay.

8 When you transmitted these funds or directed that the
9 funds be transmitted, I take it you understood that those
10 funds -- at a minimum that the Court should have been advised
11 about those funds and perhaps that the funds should have been
12 provided to the Court or at least to the receiver, is that a
13 fair statement?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: So was it your intent in transferring
16 those funds to essentially obstruct or interfere with the
17 proceedings by preventing that money from getting into the
18 hands of the receiver and/or the SEC?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: When you did those things, did you
21 understand that what you were doing was wrong and was, in fact,
22 contrary to the orders entered by Judge Cote in the action
23 here?

24 THE DEFENDANT: I did know it was wrong.

25 THE COURT: Mr. DeVita, are you aware of any valid

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1 defense that would prevail at trial or do you know of any
2 reason why Mr. Olins should not be permitted to plead guilty to
3 these two counts?

4 MR. DeVITA: No, your Honor, I don't know of any
5 reason why he should not be permitted to plead guilty.

6 THE COURT: Very good.

7 Ms. Magdo, are there any additional questions that you
8 think I should ask Mr. Olins?

9 MS. MAGDO: No, your Honor. I think that satisfies
10 the elements.

11 THE COURT: Could you please state briefly what the
12 government's evidence would be and what it would show if the
13 defendant were to go to trial.

14 MS. MAGDO: Certainly.

15 The government's evidence at trial would consist
16 mainly of testimony from witnesses; it would consist of bank
17 records, including records from the Isle of Man account,
18 emails, and other documents from Mallett and from Mr. Olins'
19 other correspondence. It would show that, in fact, there was a
20 judicial proceeding. There was one here in New York with Judge
21 Cote, and then there was one in San Francisco also in federal
22 court.

23 Mr. Olins was aware of those proceedings. He and
24 Mr. Neville entered into a conspiracy to obstruct justice by
25 preventing the courts, the SEC, and the receiver from learning

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1 about the additional funds that were retained by Mallett and
2 that were retained by Mr. Olins.

3 The evidence would also show that Mr. Olins directed
4 the transfer of \$160,000 from an account in New York to an
5 account in the Isle of Man and then eventually back into the
6 United States; and that those funds were used for his benefit;
7 and that he engaged in that transfer of money internationally,
8 at least in part to promote the obstruction of justice that I
9 just described.

10 THE COURT: All right. Thank you.

11 Mr. DeVita, do you agree that Count One gives a
12 predicate, if you will, that is to say that the unlawful
13 activity specified in Count One qualifies as specified unlawful
14 activity for purposes of Count Five?

15 MR. DeVITA: I believe that is correct, your Honor.
16 We've discussed that. I also believe that Mr. -- what
17 Mr. Olins has described would also qualify under the other
18 branch of the international money laundering, that it was for
19 the purpose of concealing the source of funds and the location
20 of funds. So I think that clearly under either -- I accept
21 Ms. Magdo's representation that it is a specified unlawful
22 activity, but I also think that it satisfies the conduct
23 described, satisfies the other branch of 1956.

24 THE COURT: All right.

25 Ms. Magdo, could you just explain to me or just make a

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1 record with respect to how that is met here.

2 MS. MAGDO: I'm sorry, your Honor. Just to be clear,
3 how the second subsection part B is met or why --

4 THE COURT: How it's qualified as a specified unlawful
5 activity.

6 MS. MAGDO: If you would give me just one moment to
7 find the exact statutory site.

8 THE COURT: Sure.

9 MR. DeVITA: Your Honor, (b)(2) also has subsection
10 (B)(i). I think clearly that the conduct described by
11 Mr. Olins fits in that category. I think there are alternative
12 means of committing the same crime; I don't think they are
13 separate crimes.

14 I know Ms. Magdo has advised me that obstruction of
15 justice is a specified unlawful activity. I haven't checked
16 that, but I don't think it really is essential to the guilty
17 plea.

18 THE COURT: I see. Because it would satisfy the
19 requirements of subsection (a)(2)(B); is that correct?

20 MR. DeVITA: (B), yes. And (B) -- more specifically,
21 (B)(i) -- I know it's very complicated, small Roman one -- to
22 conceal or disguise the nature, location, source, ownership or
23 control of the specified unlawful activity.

24 THE COURT: But even so, I think it still has to
25 qualify as specified unlawful activity within the meaning --

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1 MR. DeVITA: Well, your Honor, I think the evidence is
2 quite clear that there was a fraud committed against the bank.
3 Even if Mr. Olins became aware of it after the fraud had been
4 completed, he was aware that that was the source of the funds,
5 so therefore he was aware that -- even if the obstruction was
6 not a specified unlawful activity, the bank fraud committed by
7 Mr. Neville was.

8 THE COURT: All right. Understood.

9 Ms. Magdo, let me know when you've --

10 MS. MAGDO: I have a very handy chart back at the
11 office that I didn't bring with me.

12 MR. DeVITA: We discussed this yesterday, your Honor.
13 I took Ms. Magdo at her word. I was thinking we were going to
14 be under one pigeonhole, she had it under another pigeonhole.
15 I think either way, it's a unitary crime; it's not separate
16 crimes.

17 THE COURT: All right.

18 To be clear, it's not that I don't trust both of you,
19 but to the extent that I need to confirm that there's a factual
20 basis for the plea, I do want to just satisfy myself.

21 MR. DeVITA: Absolutely, your Honor. Probably by
22 virtue of the RICO statute, your Honor, that it incorporates by
23 reference. But there are several cross-references, which is
24 why --

25 MS. MAGDO: Oh, found it.

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1 MR. DeVITA: Okay.

2 MS. MAGDO: In 1956, where it defines specified
3 unlawful activities. So that would be in subpart --

4 THE COURT: (a)(7).

5 MS. MAGDO: (b)(7), I believe.

6 THE COURT: I think it's (c) actually.

7 MS. MAGDO: Oh, (c), (c)(7).

8 THE COURT: Am I right that -- I think Mr. DeVita is
9 right that it incorporates the list of offenses in the RICO
10 statute, Section 1961, subsection one, and that that includes
11 Section 1956. Does that --

12 MS. MAGDO: Exactly. So the large A says that
13 specified unlawful activity means any act or activity
14 constituting an offense listed in Section 1961(1) of this title
15 and then if we turn to Section 1961(1), it defines racketeering
16 activity and it includes Section 1503 relating to obstruction
17 of justice, and that's the offense underlying the conspiracy.

18 MR. DeVITA: I see that, your Honor, and I concur.

19 THE COURT: Excellent.

20 MR. DeVITA: Almost at the bottom of the column under
21 1961 one.

22 THE COURT: Correct. Very good. Thank you.

23 MS. MAGDO: You're welcome.

24 THE COURT: Sorry to be a stickler, but it comes with
25 the job.

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1 All right. Do both counsel agree that there is a
2 sufficient factual basis for a guilty plea to Counts One and
3 Five?

4 MS. MAGDO: Yes, your Honor.

5 MR. DeVITA: Yes, your Honor.

6 THE COURT: And does either counsel know of any reason
7 why I should not accept the defendant's plea of guilty to those
8 counts?

9 MS. MAGDO: No, your Honor.

10 MR. DeVITA: No, your Honor.

11 THE COURT: Mr. Olins, because you acknowledge that
12 you are, in fact, guilty of the crimes charged in Counts One
13 and Five of the indictment, because I am satisfied that you
14 know of your rights, including your right to go to trial, that
15 you understand the consequences of your plea, including the
16 sentence that could be imposed upon you, and that you are
17 knowingly and voluntarily pleading guilty, I hereby accept your
18 guilty plea and enter a judgment of guilty on Counts One and
19 Five of the indictment.

20 The probation department will want to interview you in
21 connection with its preparation of the presentence report that
22 I mentioned earlier. If you choose to speak with the probation
23 department, it is absolutely essential that anything you say is
24 truthful and accurate. Among other things, that report is
25 important to me in deciding what sentence to impose upon you

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1 before sentencing you, and your lawyers will have an
2 opportunity to review the report. I would urge you to review
3 it with care. If there are any mistakes in the report or
4 anything that you wish to bring to my attention in connection
5 with your sentencing, that you share that with your lawyers so
6 that they can bring them to my attention in the proper fashion.

7 Do you understand that?

8 THE DEFENDANT: I do.

9 THE COURT: Mr. DeVita, do you wish to be present in
10 connection with any interview?

11 MR. DeVITA: Yes, your Honor.

12 THE COURT: I order that no interview take place
13 unless counsel is present.

14 Sentencing will be set for September 21st of this year
15 at 3:30 in the afternoon.

16 I direct the government to provide the probation
17 department with its factual statement of the offense within
18 seven days. Defense counsel must arrange for the defendant to
19 be interviewed within the next two weeks.

20 In accordance with my individual rules and practices,
21 defense submissions for purposes of sentencing are due two
22 weeks prior to sentencing. The government's submission is due
23 one week prior to sentencing. If either party does not intend
24 to make a substantive sentencing submission, which would
25 surprise me here, then you should file a letter to that effect

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1 just so that we know and don't need to track you down.

2 Ms. Magdo, any objection to the present bail
3 conditions being continued through the date of sentencing?

4 MS. MAGDO: No objection.

5 MR. DeVITA: Your Honor, if I may, I wonder if we
6 could move the sentencing back -- I have a trial beginning
7 before Judge Wood on September 12, and I may still be on trial
8 by the 21st -- perhaps one more week, if that's acceptable?

9 THE COURT: Sure. We'll make it September 29th at
10 3:30 in the afternoon.

11 All right. Mr. Olins, you should understand that your
12 present bond conditions will continue through the date of
13 sentencing; and that any violation of those conditions would
14 not only have an effect on your bail status, but also may have
15 serious consequences for you come the time of sentencing.

16 Do you understand that?

17 THE DEFENDANT: I do.

18 THE COURT: Ms. Magdo, did you want to say something
19 about that date?

20 MS. MAGDO: No. I wanted to say something about a
21 consent preliminary order of forfeiture, but perhaps we're not
22 there yet.

23 THE COURT: I'll give you an opportunity in a moment.
24 Wait your turn.

25 You should also understand, Mr. Olins, that you must

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1 be in this courtroom on the date and time that I set for
2 sentencing and you should stay in touch with Mr. DeVita to
3 learn if that date and time changes in any way. If you are not
4 present at the time that I have set for your date for
5 sentencing, you will be guilty of a separate crime and may well
6 be subject to punishment above and beyond the punishment that
7 you receive in connection with the plea you just entered.

8 Do you understand that?

9 THE DEFENDANT: I do, your Honor.

10 THE COURT: All right.

11 Ms. Magdo, now, anything else?

12 MS. MAGDO: We have a consent preliminary order of
13 forfeiture signed by the parties that we would like to pass up
14 for your Honor's consideration.

15 THE COURT: All right.

16 Would you hand that to Ms. Smallman and I'll take a
17 look at it.

18 Mr. DeVita, any objection to my signing and docketing
19 this?

20 MR. DeVITA: No, your Honor. My client and I have
21 both signed it.

22 THE COURT: All right.

23 I have signed that and will have it docketed.

24 Anything further from your end, Mr. DeVita?

25 MR. DeVITA: No, your Honor. Thank you.

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1 THE COURT: All right.

2 I wish you all a pleasant weekend.

3 We are adjourned. Thank you.

4 MS. MAGDO: Thank you, your Honor.

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